

CITY COUNCIL AGENDA

FEBRUARY 1, 2005

AMENDED AGENDA

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
VACANT
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:30 a.m. - Closed Session, Room 600, City Hall
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
7:00 p.m. - **CANCELLED**
- **Invocation (District 2)**
Christian Medina, Edenvale Elementary School, and Morgan Williams, Oak Ridge Elementary School
- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

ITEMS 10.1 AND 10.2 ARE TO BE CONSIDERED IN A JOINT CITY COUNCIL/REDEVELOPMENT AGENCY BOARD SESSION.

ADJOURNMENT: This meeting will be adjourned in memory of long time Hyde Park Neighborhood resident, Frank Guidicessi.

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

1 CEREMONIAL ITEMS

1.1 Presentation of a commendation to San Jose Police officers who volunteered their time and energy at the 2004 Susan G. Komen Breast Cancer Walk. (Chavez)
(Deferred from 12/7/04 – Item 1.2)

1.2 Swearing-in of District 2 Youth Commissioner, Lydia Kim. (City Clerk)
TO BE HEARD IN THE EVENING

* **RECOMMEND DEFERRAL TO 2/15/05**

1 CEREMONIAL ITEMS

- 1.3** Presentation of plaques to Nedra Jones for four years of service on the Council Salary Setting Commission; Jeffrey Dennison for two years and eleven months of service on the Housing Advisory Commission; Jose Hernandez for four years of service on the Human Rights Commission; Jeanette Leach for four years and six months of service on the Human Rights Commission; James Weston for four years of service on the Human Rights Commission; and Brendan Nwachukwu for two years and eleven months of service on the Small Business Development Commission. (Mayor)

TO BE HEARD IN THE EVENING

- * **RECOMMEND DEFERRAL TO 2/15/05**

- 1.4** Presentation of a commendation to the Diocese of San Jose recognizing the week of February 1, 2005 as Catholic Schools Week. (Yeager)

- 1.5** Presentation of an award for Energy Efficiency activities. (Environmental Services)

- 1.6** Presentation of awards recognizing the City's efforts on affordable housing. (Housing)

- 1.7** Presentation of a proclamation declaring February 2005 as Silicon Valley Reads Month. (Mayor)

- * (Deferred from 1/25/05 – Item 1.1)

- 1.8** Presentation of a proclamation declaring the month of February as American Heart Month and February 4, 2005 as "Wear Red for Women Day", to raise awareness of heart disease as the leading cause of death in women. (Campos)

- * (Rules Committee referral 1/26/05)

- 1.9** Presentation of a commendation to Edenvale Elementary School for earning the honor of being a California Distinguished School as recognized by the California Department of Education. (Williams)

- * (Rules Committee referral 1/26/05)

- 1.10** Presentation of a commendation to Oak Ridge Elementary School for earning the honor of being a California Distinguished School, as recognized by the California Department of Education. (Williams)

- * (Rules Committee referral 1/26/05)

2 CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2 CONSENT CALENDAR

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

2.3 Approval of the Office of the City Auditor's Report of Activities and Findings for the period November 16 through December 15, 2004.

Recommendation: Approval of the Office of the City Auditor's *Report of Activities and Findings for the period November 16 through December 15, 2004.* (City Auditor)

2.4 Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP for the quarter ending September 30, 2004, relating to the Bay 101 Conditional Approval of Stock Transfer.

Recommendation: Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP for the quarter ending September 30, 2004, relating to the Bay 101 Conditional Approval of Stock Transfer. (City Auditor)

2.5 Approval of the City Auditor's Travel Calendar through June 30, 2005.

Recommendation: Approval of the City Auditor Gerald Silva's travel calendar through June 30, 2005, at a total cost to the City of \$2,353. (City Auditor)

* **RECOMMEND DEFERRAL TO 2/15/05**

2.6 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Community Garden Project (PSM 395) and OEA Audit Services Project (PSM 397) with a net impact to the fund of \$255,000.
- (b) Adoption of a resolution making certain determinations regarding the related expenditures of the Redevelopment Agency funds on certain public improvements in connection with the Enhanced Crosswalk Installation project, as more specifically described in the memorandum from the Redevelopment Agency, dated December 6, 2004.

CEQA: Not a Project. Council District 2. SNI: Edenvale/Great Oaks. (City Manager's Office)

2.7 Approval of an interim agreement to extend the City's dental agreements.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an interim agreement to extend the group dental agreements with Delta Dental of California and Dental Benefit Providers (DBP) for plan administration and for dental insurance, respectively, for the period January 1, 2005 through December 31, 2005. CEQA: Not a Project. (Employee Services)

2 CONSENT CALENDAR

2.8 Approval to accept high bids for the sale of the following parcels of City-owned properties.

- * **Recommendation:** Adoption of a resolution accepting the high bids on the following parcels of City-owned property, which were offered for public auction on December 15, 2004, and authorizing the Director of General Services to execute all documents necessary to complete the transactions:
- (a) State Street, West side (vacant property) (APN 015-12-077) to the highest bidders George A. Maciel and Jessup C. Miller, for the amount of \$240,000.
 - (b) 12161 Berryessa Road (APN 241-03-014) to the highest bidder JROK, LLC. - Managing Partner Robert B. Facchino II, for the amount of \$210,000.
 - (c) 328 Willow Street (APN 434-05-016) to the highest bidder Edward Nazaradeh, for the amount of \$150,000.
 - (d) Willow Street at Graham (vacant property) (APN 434-07-024) to the highest bidder Mark McGinnis and Beryl Blackstone, for the amount of \$125,000.
 - (e) 239 Bernal Road (APN 704-44-007) to the highest bidders Justin Holliday, Steve Evans, and David Fishback, for the amount of \$555,000.
- CEQA: Exempt, PP-00-02-003. Council Districts 2, 3, 4 and 10. (General Services)

2.9 **Approval to reject the sole bid and re-advertise and re-bid the Building Re-enforcement of Wireless Radio, Cellular, and WiFi Coverage in New City Hall.**

- * **Recommendation:** Approval to reject the sole bid for the San José New City Hall In-Building Re-enforcement of Wireless Radio, Cellular, and WiFi Coverage Project. CEQA: Resolution No. 68905. (Public Works/Information Technology)
(Deferred from 1/11/05 – Item 2.16 and 1/25/05 – Item 2.11)

2.10 **Approval to award a contract for the Airport's Tenant Improvement Project.**

Recommendation: Approval to reject all bids for the Norman Y. Mineta San José International Airport Tenant Improvement Phase 1-B Project and authorization for the Director of Public Works to readvertise and rebid the project. CEQA: Resolution Nos. 67380 and 71451, PP 04-333. (Public Works/Airport)
(Deferred from 1/11/05 – Item 2.17 and 1/25/05 – Item 2.12)

2.11 Approval of a nomination to the San Jose Silicon Valley Workforce Investment Network Board of Directors

Recommendation: Approval of a nomination to the San Jose Silicon Valley Workforce Investment Network Board of Directors (Mayor)
(Rules Committee referral 1/26/05)

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

3.2 Report of the Rules Committee – January 19, 2005 Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review February 1, 2005 Council Agenda
 - (2) Add New Items to January 25, 2005 Amended Agenda
 - Mayor and Councilmember Requests
 - City Manager Requests
 - City Attorney Requests
 - City Clerk Requests
 - (3) List of Reports Outstanding
- (c) Legislative Update
 - (1) 2005 Legislative Priorities
- (d) Meeting Schedules
 - (1) Approval of the 2005/2006 Budget Study Session Schedule
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- * (g) Rules Committee Reviews, Recommendations and Approvals
 - (2) Approve Council Committee Workplans
 - (a) All Children Achieve
DEFERRED TO 1/26/05 RULES COMMITTEE
 - (b) Building Better Transportation
 - (c) Building Strong Neighborhoods
 - (d) Driving a Strong Economy
 - (e) Making Government Work Better
 - (f) Rules
 - (3) Report on Commission Vacancies and Incumbents Eligible for Re-Appointments
HEARD ON 1/25/05 BY COUNCIL
- (h) Oral Communications
- (i) Adjournment

3.3 Report of the Making Government Work Better Committee Council Member Reed, Chair

3 STRATEGIC SUPPORT SERVICES

3.4 Approval of various actions to award a contract for the New City Hall Parking Garage.

* **Recommendation:**

- (a) (1) [Report on bids and award of contract for the New City Hall Parking Garage to the low bidder, Swinerton Builders.](#) City Staff's recommendation is to accept the Base Bid, in the amount of \$21,378,000, Additive Alternate Number 7, in the amount of \$310,000 for a total of \$21,688,000, and approval of a contingency in the amount of \$1,084,400.
- (2) Adoption of a resolution increasing the City Manager's delegated authority for the Civic Center Project set forth in Resolution No. 71920 from the current amount of \$343,000,000 to 345,700,000.
- (3) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Civic Center Parking Fund:
- (a) Increase the New City Hall Parking Garage appropriation by \$1,153,000.
- (b) Increase the estimate for Earned Revenue by \$1,153,000 to reflect Commercial Paper proceeds.
- (4) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Civic Center Construction Fund:
- (a) Increase the Construction appropriation by \$1,467,000.
- (b) Increase the estimate for Earned Revenue by \$1,467,000 to reflect Commercial Paper proceeds.
- CEQA: EIR Resolution No. 68905, PP98-03-072, Civic Plaza Redevelopment Plan SEIR Resolution No. 71743, PP03-03-088, FRSEIR Resolutions 72230 and 72230.1. (Public Works/City Manager's Office)
(Rules Committee referral 1/26/05)
- (b) Direction to the City Manager to:
- (1) Take the steps necessary to participate in the California Statewide Communities Development Authority Vehicle License Fee Gap Loan Receivable Financing Program, and return to the City Council on February 15, 2005 for approval of the documents required for participation in the program; and
- (2) Commit the proceeds of the program to cash fund a portion of the costs of the Civic Center Garage Project in order to reduce future debt service costs.
- CEQA: Not a Project. (Finance/City Manager's Office)

3.5 Approval of a process for the reappointment of eligible incumbents for Boards and Commission within the Project Diversity Program.

Recommendation: As recommended by the Rules Committee, direct the City Clerk to amend the recruitment process for Boards and Commissions within the Project Diversity Program, as it relates to the re-appointment of eligible incumbents. (City Clerk)
[Rules Committee referral from 1/19/05 – Item 3.2(g)]

* **DROP, HEARD BY THE COUNCIL ON 1/25/05**

3 STRATEGIC SUPPORT SERVICES

3.6 [Approval of actions prohibiting Special Events Accounts for Council District and City-wide special events.](#)

[City Clerk's Memo](#)

- * **Recommendation:** Adoption of a resolution prohibiting Special Events Accounts as currently handled by individual elected officials for donations for Council District and City-wide special events.
- (a) [Direction to the City Clerk to transfer remaining balances in existing special events accounts to the Gift Trust Fund and designate those funds for the purpose for which they were donated, as appropriate.](#)
 - (b) Direction to the Administration to return with related funding sources resolution and appropriate ordinance amendments. (Blue Ribbon Task Force)
- (Rules Committee referral 1/19/05)
(Deferred from 1/25/05 – Item 3.8)

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 **Report of the Building Strong Neighborhoods Committee**
Council Member Chirco, Chair

4.2 **Report of the Driving a Strong Economy Committee**
Council Member Williams, Chair

4.3 **Approval of actions for the prevailing wage policy for affordable housing projects.**

Recommendation: Adoption of a resolution amending Resolution No. 61716 to:

- (a) [Extend the affordable housing project prevailing wage policy to projects receiving funding in the permanent financing stage.](#)
 - (b) Authorize the Director of Housing to execute all necessary documents.
- CEQA: Not a Project. (Housing)

5 RECREATION & CULTURAL SERVICES

5.1 **Report of the All Children Achieve Committee**
Council Member Yeager, Chair

5.2 [Approval to adopt the Aging Services Strategic Plan.](#)

[Supplemental](#)

Recommendation: Approval to adopt the Aging Services Strategic Plan. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

5.3 [Acceptance of the Arena Authority's Annual Report for Fiscal Year 2003-2004.](#)

Recommendation: Acceptance of the Arena Authority's Annual Report for Fiscal Year 2003-2004. CEQA: Not a Project. (San José Arena Authority)

RECOMMEND DEFERRAL TO 2/8/05

6 TRANSPORTATION SERVICES

**6.1 Report of the Building Better Transportation Committee
Council Member Campos, Chair**

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

**CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEMS 10.1
AND 10.2 IN A JOINT SESSION**

10.1 [Acceptance of the quarterly CIP and SNI status reports.](#)

Recommendation: Acceptance of the quarterly report on the Citywide Capital Improvement Program (CIP), including Park, Library, and Public Safety Bond Projects, and Strong Neighborhoods Initiative (SNI) Projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

10.2 [Approval of actions for the Dorchester property.](#)

Recommendation:

- (a) Adoption of a resolution by the Redevelopment Agency Board:
 - (1) Approving the transfer to the City of San José of a 16-unit rental property located at 295 East San Fernando Street and 79 South Seventh Street and authorizing the Executive Director to enter into an agreement with JCN Investors, LLC (JCN) on behalf of Beta Theta Pi Fraternity (the Fraternity)

- to acquire the Property from the City of San José in the amount of \$1,100,000; and,
- (2) Authorizing the Executive Director to execute such documents as necessary to conclude the transaction.
- (b) Adoption of a resolution by the City Council:
- (1) Approving the sale of 16-unit rental property known as the Dorchester property located at 295 East San Fernando Street and 79 South Seventh Street to JCN Investors, LLC (JCN) on behalf of Beta Theta Pi Fraternity (the Fraternity) from the City of San José in the amount of \$1,100,000.
 - (2) Accepting the Relocation Plan for residents at the Dorchester property. Council District 3. SNI: University. (City Manager's Office/Redevelopment Agency) (Deferred from 1/25/05 – Item 10.2)

ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING

- Closed Session Report
- Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
94361	N/S Hillsdale Ave. E/O Narvaez Ave.	7	KB Homes South Bay	3 Lots	Condo	Approve
9527	Northwest Corner of Cunningham Ave. and Cunningham Ct.	8	Bao D. Pham and Jordan Ky Pham	6 Lots	SFD	Approve
9658	S/W corner of Silver Creek Road and Aborn Road	7	Green Valley Corporation	3 Lots	Commercial	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9645	S/E corner of 12 th Street and Orvis Avenue	3	KB Homes	51 Units	Single Family
9668	N/E corner of North Morrison Avenue and The Alameda	6	Green Valley Corporation	1 Lot	Condo

- Open Forum—To be heard jointly with Redevelopment Agency Public Discussion. Following Open Forum, Council will recess until 7:00 p.m.
- **Adjournment**
This meeting will be adjourned in memory of long time Hyde Park Neighborhood resident, Frank Guidicessi.